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WICK, W. *Beiträge zur Entwicklungsgeschichte des schweizerischen Braugewerbes (1870-1912)*. Schweizerische Wirtschafts-Studien, 3. (Zurich: Füssli. 1914. Pp. xx, 230. 4.80 M.)

### Transportation and Communication

*The Validity of Rate Regulations, State and Federal.* By ROBERT P. REEDER. (Philadelphia: T. and J. W. Johnson Company. 1914. Pp. xv, 440.)

This is an interesting law book. A subject of vital interest--the regulation of railroads by public authority—is treated in a most illuminating manner and in a lucid and forceful style.

The early part of the volume deals with the important subject of state control over interstate rates. It is unfortunate that it was published before the Supreme Court announced its far-reaching decision in the Shreveport case.<sup>1</sup> In the “twilight zone” of regulation the author’s tendency is towards giving the control over to the state, but he has taken no position which would necessarily conflict with the fullest endorsement of that case. The power of Congress over interstate commerce is full and complete—plenary is the word of the cases—and if in its judgment any act of the state interferes with the free flow of commerce between the states, such act is unconstitutional. The act of the state of Texas in making rates from interior points towards the border materially lower than rates from Louisiana to these same points would necessarily interfere with the free flow of commerce from Louisiana to these points in Texas. It would be interesting to know whether Reeder with his pro-state ideas would find anything to criticise in this case. One position taken by him is far from convincing, namely, that the state may enter into a contract with a railroad whereby, in consideration of franchises granted, the railroad surrenders to the state control over interstate rates. If this can be done the states in the course of time might entirely oust the federal government of its jurisdiction, which is inconceivable. It is true that the contract may be voidable if the consideration fails—the railroad cannot take the benefits without assuming the burdens of such a contract—but that is a very different proposition from conceding to the state power over interstate rates. A railroad can not barter away a right of the national government.

A characteristic of the author is that, despite his vigor, he is

<sup>1</sup> *Houston, East and West Texas Railway Co. v. United States*, 234 U. S. 342 (June 8, 1914).

apparently entirely unbiased on the question of the public policy of governmental regulation. He may or may not be in favor of the extension or restriction of governmental control. He conceives that it is his duty in a law treatise to discuss simply the law. He is delightfully controversial on questions of law, but properly silent on questions of policy. His very elaborate and profound discussion of the power of Congress to delegate the rate-making power to a commission is an example of this attitude. In a chapter of 65 pages he discusses this fundamental question and arrives at the conclusion that Congress has no such power and that the Supreme Court, despite many dicta to the contrary, has never decided that it has. The power to fix rates, even under the restraining influences of the fifth amendment, is a tremendous power not only over railroad property but also over commerce and industry. A decision of the commission in fixing rates might deprive the owners of railroads of a billion dollars of value without confiscating property within the prohibition of the Constitution. It might determine the location of industry and build up one city at the expense of another. Can a power involving such tremendous consequences be delegated by the law-making body? It would seem that as a matter of principle the author is clearly right. Neither of the alternatives, however—namely, the exercise of the rate-making power directly by Congress or leaving the railroads free to make their own rates, restrained only by the courts—is likely to be accepted. The railroads are not likely to raise the issue. They prefer a not altogether unintelligent, flexible control, even though somewhat influenced by politics, to an uninformed rigid control, wholly dominated by politics.

More than half the book is devoted to a discussion of the fifth and fourteenth amendments. It would seem as if little that is new could be said about "due process of law," but the author has said some things that are new in a not unconvincing way and some things that are old in a particularly lucid way. His contention that the fourteenth amendment should not be interpreted as preventing a state from reducing rates below a compensating point he admits is now purely an academic question.

The discussion of the vitally important questions relating to the valuation of railroads—questions which are engrossing the attention of the Interstate Commerce Commission and the railroads in connection with the federal valuation of these properties—is necessarily somewhat fragmentary, but it contains enough pen-

trating suggestions to give one an appetite for a more extended treatment.

There are few law books which can be read in their entirety with interest and profit, especially by laymen, but any one interested in the great subject of governmental regulation of railroads will find keen relish in this notable work.

EDGAR J. RICH.

#### NEW BOOKS

- AGNEW, W. N. *The industrial traffic department.* (Chicago: LaSalle Exten. Univ. 1914. Pp. 30.)
- BAKENHUS and others. *The Panama canal; its history and construction, and its relation to the navy, international law and commerce.* (New York: Wiley, 1914. Pp. 9, 257. \$2.50.)
- HEPBURN, A. B. *Artificial waterways of the world.* (New York: Macmillan. 1914. Pp. xi, 171. \$1.25.)
- HESS, R. H. and WHALING, H. B. *Outlines of American railway transportation.* (Madison, Wis.: Democrat Prtg. Co. 1915. Pp. 208. \$1.)
- LINGO, C. L. *Bases for freight charges.* (Chicago: LaSalle Exten. Univ. 1914. Pp. 62.)
- LUST, H. C. *Quarterly digest of decisions under the interstate commerce act.* No. 3. (Chicago: Traffic Law Bk. Co. 1914. Pp. 131. \$2.)
- MCCAIN, C. C. and SHELTON, W. A. *Freight rates. Official classification territory and eastern Canada.* Lesson Assignment 6. *All-rail rates eastbound.* 7. *Canadian percentage territory rates; rail-and-water rates; development of percentage system.* 8. *Port, interterritorial, local.* (Chicago: LaSalle Exten. Univ. 1914. Pp. 41-295.)
- PARMELEE, J. H. *Statistics of freight traffic.* (Chicago: LaSalle Exten. Univ. 1914. Pp. 32.)
- RIPLEY, W. Z. *Railroads. Finance and organization.* (New York: Longmans. 1915. Pp. 675. \$3.)  
To be reviewed.
- ROELL, F. *Encyklopädie des Eisenbahnwesens.* Second edition, revised. (Vienna: Urban & Schwarzenberg. 1914. Pp. viii, 484. 18.50 M.)
- STEVENS, E. C. *English railways, their development and their relations to the state.* (London: Stevens, Routledge. 1915. 6s.)
- VOULLAIRE, F. A. *How to ship; freight tariff encyclopedia of joint, through and proportional rates applying on classes and commodities, from trunk line and New England territory via all*